

tion required by that subparagraph for each of fiscal years 1994 through 1997.”

COMPLIANCE WITH ANNEX V TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973

Section 324(b), (c) of Pub. L. 104-201, as amended by Pub. L. 105-85, div. A, title X, §1073(c)(1), Nov. 18, 1997, 111 Stat. 1904; Pub. L. 108-136, div. A, title X, §1031(f)(1), Nov. 24, 2003, 117 Stat. 1604, provided that:

“(b) SENSE OF CONGRESS.—(1) It is the sense of Congress that it should be an objective of the Navy to achieve full compliance with Annex V to the Convention as part of the Navy’s development of ships that are environmentally sound.

“(2) In this subsection and subsection (c), the terms ‘Convention’ and ‘ship’ have the meanings given such terms in section 2(a) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)).

“[(c) Repealed. Pub. L. 108-136, div. A, title X, §1031(f)(1), Nov. 24, 2003, 117 Stat. 1604.]”

REPORT ON SERVICES OBTAINED PURSUANT TO REIMBURSEMENT AGREEMENTS DURING FISCAL YEAR 1996

Section 321(b) of Pub. L. 104-106 provided that: “The Secretary of Defense shall include in the report submitted to Congress with respect to fiscal year 1998 under section 2706(a) of title 10, United States Code, information on the services, if any, obtained by the Secretary during fiscal year 1996 pursuant to each agreement on a reimbursable basis entered into with a State or local government agency under section 2701(d) of title 10, United States Code, as amended by subsection (a). The information shall include a description of the services obtained under each agreement and the amount of the reimbursement provided for the services.”

TIME OF SUBMISSION OF REPORTS

Section 1001(e) of Pub. L. 103-160 provided that:

“(1) A report submitted in 1994 under subsection (a) of section 2706 of title 10, United States Code, as amended by subsection (a), and under subsection (b) of such section, as amended by subsection (b), shall be submitted not later than March 31, 1994.

“(2) A report under subsection (c) of section 2706 of such title, as added by subsection (c), shall be submitted for fiscal years beginning with fiscal year 1993. Any such report that is submitted for fiscal year 1993 or fiscal year 1994 shall be submitted not later than February 1, 1995.”

**§ 2707. Environmental restoration projects for environmental responses**

(a) ENVIRONMENTAL RESTORATION PROJECTS AUTHORIZED.—The Secretary of Defense or the Secretary of a military department may carry out an environmental restoration project if that Secretary determines that the project is necessary to carry out a response under this chapter or CERCLA.

(b) TREATMENT OF PROJECT.—Any construction, development, conversion, or extension of a structure, and any installation of equipment, that is included in an environmental restoration project under this section may not be considered military construction (as that term is defined in section 2801(a) of this title).

(c) SOURCE OF FUNDS.—Funds authorized for deposit in an account established by section 2703(a) of this title shall be the only source of funds to conduct an environmental restoration project under this section.

(d) ENVIRONMENTAL RESTORATION PROJECT DEFINED.—In this section, the term “environmental restoration project” includes any construction, development, conversion, or extension

of a structure, or installation of equipment, in direct support of a response.

(Added Pub. L. 107-314, div. A, title III, §313(a)(2), Dec. 2, 2002, 116 Stat. 2507.)

PRIOR PROVISIONS

A prior section 2707 was renumbered section 2700 of this title.

**§ 2708. Contracts for handling hazardous waste from defense facilities**

(a) REIMBURSEMENT REQUIREMENT.—(1) Each contract or subcontract to which this section applies shall provide that, upon receipt of hazardous wastes properly characterized pursuant to applicable laws and regulations, the contractor or subcontractor will reimburse the Federal Government for all liabilities incurred by, penalties assessed against, costs incurred by, and damages suffered by, the Government that are caused by—

(A) the contractor’s or subcontractor’s breach of any term or provision of the contract or subcontract; and

(B) any negligent or willful act or omission of the contractor or subcontractor, or the employees of the contractor or subcontractor, in the performance of the contract or subcontract.

(2) Not later than 30 days after such a contract or subcontract is awarded, the contractor or subcontractor shall demonstrate that the contractor or subcontractor will reimburse the Federal Government as provided in paragraph (1).

(b) APPLICABILITY.—(1) Except as provided in paragraph (2), this section applies to each contract entered into by the Secretary of Defense or the Secretary of a military department, and any subcontract under any such contract, with an owner or operator of a hazardous waste treatment or disposal facility during fiscal years 1992 through 1996 for the offsite treatment or disposal of hazardous wastes from a facility under the jurisdiction of the Secretary of Defense.

(2) This section does not apply to—

(A) any contract or subcontract to perform remedial action or corrective action under the Defense Environmental Restoration Program, other programs or activities of the Department of Defense, or authorized State hazardous waste programs;

(B) any contract or subcontract under which the generation of the hazardous waste to be disposed of is incidental to the performance of the contract; or

(C) any contract or subcontract to dispose of ammunition or solid rocket motors.

(c) EXCEPTION TO REIMBURSEMENT REQUIREMENT.—Notwithstanding subsection (a), in the case of any contract to which this section applies, if the Secretary of Defense or the Secretary of the military department concerned determines that—

(1) there is only one responsible offeror or there is no responsible offeror willing to provide the reimbursement required by subsection (a) for such contract; or

(2) failure to award the contract would place the facility concerned in violation of any requirement of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.),

then the contract may be awarded without including the reimbursement provision required by subsection (a).

(d) DEFINITIONS.—In this section:

(1) The term “hazardous waste” has the meaning given that term by section 1004(5) of the Solid Waste Disposal Act (42 U.S.C. 6903(5)), except that such term also includes polychlorinated biphenyls.

(2) The term “remedial action” has the meaning given that term by section 101(24) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(24)).

(3) The term “corrective action” has the meaning given that term under section 3004(u) of the Solid Waste Disposal Act (42 U.S.C. 6924(u)).

(4) The term “polychlorinated biphenyls” has the meaning given that term under section 6(e) of the Toxic Substances Control Act (15 U.S.C. 2605(e)).

(e) EFFECT ON LIABILITY.—Nothing in this section shall affect the liability of the Federal Government under any Federal or State law or under common law.

(Added Pub. L. 102-190, div. A, title III, § 331(a)(1), Dec. 5, 1991, 105 Stat. 1339; amended Pub. L. 102-484, div. A, title III, § 321, title X, § 1052(36), Oct. 23, 1992, 106 Stat. 2365, 2501; Pub. L. 103-160, div. A, title X, § 1004, Nov. 30, 1993, 107 Stat. 1748.)

#### REFERENCES IN TEXT

The Solid Waste Disposal Act, referred to in subsec. (c)(2), is title II of Pub. L. 89-272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§ 6901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of Title 42 and Tables.

#### AMENDMENTS

1993—Subsec. (b)(1). Pub. L. 103-160 substituted “fiscal years 1992 through 1996” for “fiscal years 1992 and 1993”.

1992—Subsec. (b)(1). Pub. L. 102-484, § 1052(36)(A), substituted “each contract” for “all contracts” and “any subcontract under any such contract” for “all subcontracts under such contracts”.

Pub. L. 102-484, § 321, substituted “fiscal years 1992 and 1993” for “fiscal year 1992”.

Subsec. (d). Pub. L. 102-484, § 1052(36)(B), substituted “In” for “For purposes of” in introductory provisions.

#### EFFECTIVE DATE

Section 331(b) of Pub. L. 102-190 provided that: “Section 2708 of title 10, United States Code, shall apply with respect to contracts entered into after the expiration of the 60-day period beginning on the date of the enactment of this Act [Dec. 5, 1991].”

### § 2709. Investment control process for environmental technologies

(a) INVESTMENT CONTROL PROCESS.—The Secretary of Defense shall ensure that the technology planning process developed to implement section 2501 of this title and section 270(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2469) provides for an investment control process for the selection, prioritization, management, and eval-

uation of environmental technologies by the Department of Defense, the military departments, and the Defense Agencies.

(b) PLANNING AND EVALUATION.—The environmental technology investment control process required by subsection (a) shall provide, at a minimum, for the following:

(1) The active participation by end-users of environmental technology, including the officials responsible for the environmental security programs of the Department of Defense and the military departments, in the selection and prioritization of environmental technologies.

(2) The development of measurable performance goals and objectives for the management and development of environmental technologies and specific mechanisms for assuring the achievement of the goals and objectives.

(3) Annual performance reviews to determine whether the goals and objectives have been achieved and to take appropriate action in the event that they are not achieved.

(Added Pub. L. 106-65, div. A, title III, § 323(b)(1), Oct. 5, 1999, 113 Stat. 562.)

#### REFERENCES IN TEXT

Section 270(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2469), referred to in subsec. (a), is set out as a note under section 2501 of this title.

#### PURPOSES OF SECTION 323 OF PUB. L. 106-65

Pub. L. 106-65, div. A, title III, § 323(a), Oct. 5, 1999, 113 Stat. 562, provided that: “The purposes of this section [enacting this section, amending section 2706 of this title, and enacting provisions set out as a note under section 2706 of this title] are—

“(1) to hold the Department of Defense and the military departments accountable for achieving performance-based results in the management of environmental technology by providing a connection between program direction and the achievement of specific performance-based results;

“(2) to assure the identification of end-user requirements for environmental technology within the military departments;

“(3) to assure results, quality of effort, and appropriate levels of service and support for end-users of environmental technology within the military departments; and

“(4) to promote improvement in the performance of environmental technologies by establishing objectives for environmental technology programs, measuring performance against such objectives, and making public reports on the progress made in such performance.”

### § 2710. Inventory of unexploded ordnance, discarded military munitions, and munitions constituents at defense sites (other than operational ranges)

(a) INVENTORY REQUIRED.—(1) The Secretary of Defense shall develop and maintain an inventory of defense sites that are known or suspected to contain unexploded ordnance, discarded military munitions, or munitions constituents.

(2) The information in the inventory for each defense site shall include, at a minimum, the following:

(A) A unique identifier for the defense site.

(B) An appropriate record showing the location, boundaries, and extent of the defense